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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by Associazione Comunita Papa Giovanni XXIII, Company of the Daughters of Charity of St. Vincent de Paul, Congregation of Our Lady of Charity of the Good Shepherd, International Catholic Child Bureau, World Union of Catholic Women's Organizations, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The commercial maternal surrogacy violates human dignity

Associazione Comunità Papa Giovanni XXIII and the other co-signing NGOs take note of the Report published by the Special Rapporteur on sale of children, child prostitution and child pornography A/HRC/31/58.

Violence against children is often subtle and hidden, but especially for this reason, it has to be further denounced and opposed.

The widespread phenomenon of commercial maternal surrogacy is a new example of violence against children, a violence that often is not even reported because children are voiceless and therefore they cannot claim for their rights.

In this regard, and for the reasons below, we ask members States:

1) to resolutely condemn the phenomenon of commercial maternal surrogacy, because it violates children's human rights and human dignity (of natural mothers / surrogate mothers and children that are born through this process);

2) to ban this practice at international level.

It's already stated, in art. 11 of the Vienna Declaration and Programme of Action, that:

"Everyone has the right to enjoy the benefits of scientific progress and its applications. The World Conference on Human Rights notes that certain advances, notably in the biomedical and life sciences as well as in information technology, may have potentially adverse consequences for the integrity, dignity and human rights of the individual, and calls for international cooperation to ensure that human rights and dignity are fully respected in this area of universal concern."

More recently, Pope Francis has reiterated, speaking to businessmen and politicians at World Economic Forum 2016 in Davos, that: "Man must guide technological development, without letting himself be dominated by it."[1].

With the European Parliament resolution of 17th December 2015 (2015/2229 INI[2]) – paragraph 115 -, Europe, too, expressed a clear censure of this practice: "Condemns the practice of surrogacy, which undermines the human dignity of the woman since her body and its reproductive functions are used as a commodity; considers that the practice of gestational surrogacy which involves reproductive exploitation and use of the human body for financial or other gain, in particular in the case of vulnerable women in developing countries, shall be prohibited and treated as a matter of urgency in human rights instruments".

Nowadays the commercial maternal surrogacy phenomenon represents a serious threat to the respect of human rights and human dignity of all people, particularly of those new-borns that are selected, commissioned and paid for, as if they were objects.

Medias and lobbies try to convince the public opinion that we are facing a scientific and social progress, to the extent of defending the right to parenthood regardless of the means used to achieve this objective.

There is a tendency to defend the assumption that what is desired, as well as what is technologically achievable and buyable becomes legitimate and legal for all rich people.

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[1] Message of his holiness Pope Francis to the executive president of the world economic forum on the occasion of the annual gathering in Davos-Klosters (Switzerland) 30.12.2015

[2] European Parliament resolution of 17 December 2015 on the Annual Report on Human Rights and Democracy in the World 2014 and the European Union's policy on the matter (2015/2229(INI))

As a matter of fact the real motivating force of this phenomenon is defending the procreative industry: a global procreative market where new-borns are chosen from catalogues and eugenically selected according to the buyers' requests. They are therefore treated as goods.

In the last five years we have witnessed an increase in the number of clinics and agencies proposing this practice - especially in developing countries- as a normal possibility open to rich / wealthy couples.

We are witnessing a process of women's degradation and the use of their bodies as a simple children's production mean. Maternity is not longer seen as a natural phenomenon, but it is contaminated by an economic-financial prospective based on the service provision-payment mechanism; the new-born becomes the object of a legal contract and, as such, it is picked in a catalogue, ordered and purchased.

Paying the price at birth, only after a medical examination aimed at verifying the absence of "flaws and defects" makes the child more similar to a factory good than to a human being.
The so desired, planned, selected and "wrapped" child, becomes only an item purchased by their intended parents that, in this way, fulfil a wish that otherwise would remain unsatisfied.

In this way, the newborn becomes only an item to be ordered, assembled and paid at delivery.

In most cases, the intended parents require for a baby presenting certain characteristics (like a specific skin colour); this implies more lab procedures in vitro fertilization before obtaining the desired embryo to be implanted in the womb of the surrogate mother; consequently, all the embryos that do not match the requirements are discarded.

Moreover, if the numerous medical visits, which surrogate mothers are subject to, reveal the eventual risk of malformation, the couple that asked for surrogacy has the right to ask the mother to abort the foetus, and she cannot oppose the decision. By contract, the intended parents have the full right to require and obtain the abortion (and then the authorization to kill the foetus), in case malformations are manifested.

Moreover, also children with disabilities are persons whose life should be protected since their conception.
On the contrary, the right to life is explicitly denied to a disabled foetus carried by a surrogate mother, and the surrogate mother herself is not allowed to continue the pregnancy even if she wanted to.
The baby comes to life only because he/she is the planned response to a desire that otherwise would remain unsatisfied.

The logic of "being useful" triumphs over the simple logic of "being"[3].

Furthermore, an underpinning principle of commercial maternal surrogacy is to avoid bonding between the surrogate mother and the newborn. To this end, breastfeeding is not allowed, since it would promote emotional attachment between the child and the surrogate mother, regardless of the fact that such a connection already exists since she hosted and fed the foetus throughout the nine-month gestation period.
Such prohibition prevents infant from being breastfed, neglecting child's best interest and the World Health Organization (WHO) recommendations, according to which mothers shall breastfeed their newborn during the first six months of life.

No consideration is given to the damages provoked by early separation of a new-born from the woman who has been responsible for his/her carrying and delivering; no one seems to be concerned with the need to respect and protect the right of every child – including the one born via surrogacy - to know the biological mother or the woman who carried the pregnancy until delivery; finally, no one really considers how traumatic it might be for the eventual other children of the surrogate mother to participate in the different stages of pregnancy, and then discover she gave away the new-born for exclusively economic reasons. Reproduction becomes a purely commercial affair to which everything is sacrificed.

As clearly stated by several laic associations, "Substitute motherhood makes the child a product with an exchange value, so that the distinction between a person and a thing is cancelled out.[4]".

[3] Encyclical Letter " Laudato Si' " of the holy father Francis on care for our common home; paragraph 69

This practice is not therefore admissible, not only for moral or ethical reason, but also especially because it violates the human rights of all the persons involved, in particular the ones of the newborn.

It is time to take action at international level.

Civil society, not only the "faith-based organisations" which we belong to, asks to members States the elaboration, adoption and effective implementation of an international convention for the abolition of surrogate motherhood.

Today we ask to the Human Rights Council to promote a resolution that decisively condemns the phenomenon of commercial maternal surrogacy and ban this practice at international level, since it violates children's human rights and human dignity.

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[4] http://abolition-gpa.org/charte/english/